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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/671,441	09/29/2003	Young-Kwang Byun	4653 - 0102P	6668
2292	7590	08/05/2005	EXAMINER	
BIRCH STEWART KOLASCH & BIRCH PO BOX 747 FALLS CHURCH, VA 22040-0747			CHIN, RANDALL E	
			ART UNIT	PAPER NUMBER
			1744	

DATE MAILED: 08/05/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/671,441

Applicant(s)

BYUN, YOUNG-KWANG

Examiner

Randall Chin

Art Unit

1744

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Claim Objections

1. Claim 4 is objected to because of the following informalities: Claim 4, line 3, there is a typo **after the period**, namely, "o the cap plate of the transparent receiver through adhesives."

Appropriate correction is required.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Albrecht 2,187,192 (hereinafter Albrecht '192).

Albrecht '192 discloses a handle (Figs. 1, 3-5, 10 and 11) comprising a substantially hollow transparent member 1 (p. 1, col. 2, lines 22-26), a substantially transparent receptacle member 5, 5 (p. 1, col. 2, lines 42-48) **adapted to** house a "display pattern" (on label 5a although never positively recited), said receptacle being structured to enable it to be inserted into the substantially hollow transparent member (Fig. 5) to enable the display pattern to be visible at, at least two sides of the handle p. 1, col. 2, line 50 to p. 2, col. 1, line 9). Note, also "a display pattern" can merely be the label itself (again, although never positively recited). It should be noted that claim 1 is unclear as to whether "a display pattern" is actually being positively recited.

Art Unit: 1744

As for claim 1 reciting a "cosmetic" handle, a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. In a claim drawn to a process of making, the intended use must result in a manipulative difference as compared to the prior art. See *In re Casey*, 370 F.2d 576, 152 USPQ 235 (CCPA 1967) and *In re Otto*, 312 F.2d 937, 939, 136 USPQ 458, 459 (CCPA 1963).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Albrecht '192 in view of Albrecht 2,176,698 (hereinafter Albrecht '698).

Albrecht '192 teaches all of the recited subject matter as set forth previously with the exception of the transparent receptacle being sealed within the hollow transparent member by adhesives. Albrecht '698 teaches a "receptacle" 8 (Fig. 2) being sealed within a hollow transparent member 4 by adhesives (cement as recited in col. 1, lines 50-52). It would have been obvious to one of ordinary skill to have modified the Albrecht '192 handle such that the transparent receptacle is sealed within the hollow transparent

Art Unit: 1744

member by adhesives as taught by Albrecht '698 for the purpose of preserving and protecting a housed "display pattern" from debris and unwanted fluids.

6. Claims 1-3 are rejected under 35 U.S.C. 102(b) as being anticipated by Aronson 1,937,005 (hereinafter Aronson '005).

With respect to claim 1, the patent to Aronson '005 discloses in Figs. 4-7 a cosmetic (p. 1, lines 1-2) handle comprising a substantially hollow transparent member 10 (p. 1, lines 36-39; p. 2, lines 13-15 and 66-70), a substantially transparent receptacle member defined by capsule 35 (p. 2, lines 58-59) **adapted to** house a "display pattern" (which could simply be the arrangement of vane 30 on shaft 21 as shown in Figs. 4 and 5), said receptacle being structured to enable it to be inserted into the substantially hollow transparent member (Figs. 4 and 5) to enable the "display pattern" to be visible at, at least two sides of the handle. It should be noted that claim 1 is unclear as to whether "a display pattern" is actually being positively recited. In any case, Aronson '005 discloses all of the recited subject matter set forth in claim 1 as well as "a display pattern" 21, 30 as such a recitation is broad.

As for claim 2, the substantially hollow transparent member contains a soap (p. 2, lines 15-26; deemed to be an oil) whereby the display pattern is visible through this oil interface.

As for claim 3, the substantially hollow transparent handle is provided at one end thereof with a brush 17 (Figs. 4 and 5).

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The references to Gross, Chen, Kemp, Shurney, Booth, Luball, Davis, Padulo, Bair, Eubanks, Reno, Gilman, Lew, Huang, Brach, Jr., and Tortorice are pertinent to various devices with transparent features associated with a handle.

8. Any inquiry concerning this communication or earlier communication from the Examiner should be directed to Randall Chin whose telephone number is (571) 272-1270. The Examiner can normally be reached on Monday through Thursday and every other Friday.

If attempts to reach the Examiner are unsuccessful, the Examiner's supervisor, John Kim, can be reached at (571) 272-1142. The number for Technology Center 1700 is (571) 272-1700.

The central fax number for the organization where this application or proceeding is assigned is (703) 872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Application/Control Number: 10/671,441
Art Unit: 1744

Page 6



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Randall Chin
Primary Examiner
Art Unit 1744